

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

File No. 1:13-cr-89

v.

HON. ROBERT HOLMES BELL

EVE OLIVAREZ and REM TO,

Defendants.

/

ADDENDUM TO OPINION

On October 9, 2013, this Court entered its Opinion (Dkt. No. 40) regarding Defendants Olivarez and To's motion to suppress. In its analysis, the Court discussed the sufficiency of the affidavit supporting the search of Defendant Olivarez's residence. The Court's discussion focused largely on the chain of evidence linking the residence to illegal drug activity by way of the mails. The affidavit, based on the information provided by Khamnmany Thong Phouangphet and the Zeeland Postmaster, draws an unmistakable arrow of illegal activity from California, through the mail, and to Defendant Olivarez's residence.

While the Court made reference to the testimony of a confidential informant, it writes this addendum to make explicit that (1) the uncorroborated testimony of an anonymous witness, by itself, is insufficient to support a determination that probable cause exists; and (2) the Court did not rely in any way on the testimony of the uncorroborated anonymous witness in determining that the affidavit contained facts that indicate "a fair probability that evidence of a crime will be located on the premises of the proposed search." *United States v. Jenkins*, 396 F.3d 751, 760 (6th Cir. 2005) (quoting *United States v. Bowling*, 900 F.2d 926, 930 (6th Cir. 1990)).

The Court's opinion that the affidavit was facially sufficient to determine that probable cause existed to search the residence of Defendant Olivarez was based solely on the facts contained therein regarding Khamnmany Thong Phouangphet's testimony and the investigation that took place at the Zeeland Post Office.

Dated: November 4, 2013

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE